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15 **UNITED STATES BANKRUPTCY COURT**

16 **DISTRICT OF NEVADA**

17  
18  
19 In Re:

Case No. BK-18-12734-MKN

20 SCHULTE PROPERTIES LLC,

Chapter 11

21 Debtor  
22  
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24 **EX PARTE MOTION FOR ORDER REQUIRING THE PERSON MOST**  
25 **KNOWLEDGEABLE OF NATIONSTAR LLC d/b/a MR. COOPER TO APPEAR FOR**  
26 **EXAMINATION PURSUANT TO FED. R. BANKR. P. 2004 REGARDING PROPERTY**  
**LOCATED AT 3322 CHELTENHAM STREET**

1 Pursuant to Federal Rule of Bankruptcy Procedure 2004 and Local Rule 2004, Schulte  
2 Properties LLC, (“Schulte”), the debtor in the above-referenced case, moves the Court for an *ex parte*  
3 Order under Bankruptcy Rule 2004 requiring the person most knowledgeable of Nationstar LLC d/b/a  
4 Mr. Cooper, (“Mr. Cooper”) the mortgage servicer for debtor’s property at 3322 Cheltenham Street,  
5 Las Vegas, NV 89129 (“3322 Cheltenham Street”), to appear as set forth in a subpoena to be issued  
6 pursuant to Federal Rule of Bankruptcy Procedure 9016, at a time, place, and date to be mutually agreed  
7 upon by the parties, or if no such agreement is reached, upon no less than fourteen (14) calendar days  
8 written notice by Schulte for examination, regarding the Debtor’s mortgage account and Mr. Cooper’s  
9 servicing of Debtor’s mortgage loan account. The terms “you” or “your” as used herein shall refer to  
10 the Defendant Nationstar LLC d/b/a Mr. Cooper, and any related or affiliated companies. This Motion  
11 is supported by the following Memorandum of Points and Authorities.

#### 12 MEMORANDUM OF POINTS AND AUTHORITIES

13 Fed. R. Bankr. P. 2004 provides, in relevant part, that upon motion of any party in interest, the  
14 court may order the examination of the debtor or any other entity regarding the acts, conduct, property,  
15 liabilities, and financial conditions of the debtor, or any other matter which affects the administration  
16 of the debtor’s estate or the debtor’s right to a discharge. Rule 2004 further provides that production  
17 of documents may be compelled at this examination.

18 Schulte seeks to conduct an oral examination relating to the Debtor’s mortgage account and  
19 servicing at 3322 Cheltenham Street by Mr. Cooper to inquire as follows:

- 20 a. How you or your predecessor(s) calculated interest on the amount you claim is  
21 owed to you regarding the Property located at 3322 Cheltenham Street since the Order  
22 Confirming Chapter 11 Plan of Reorganization, entered on March 8, 2011 in William R. Schulte  
23 and Melani Schulte’s Bankruptcy Case No. 09-29123-MKN (the “Confirmation Order”).  
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1           b.       How you or predecessor(s) applied each and every payment made on the claim  
2 you assert is owed to you regarding the Property since the entry of the Confirmation Order.

3           c.       How you or your predecessor(s) made the determination to apply late charges to  
4 the loan secured by the property at 3322 Cheltenham Street.

5           d.       How you have calculated the amount you claim is owed to you regarding the  
6 Property since entry of the Confirmation Order.

7           e.       The general policies and procedures Mr. Cooper employs, to ensure Mr. Cooper  
8 complies with all bankruptcy court orders that pertain to claims held by Mr. Cooper regarding  
9 the property at 3322 Cheltenham Street.

10           f.       The actions Mr. Cooper's predecessor(s) employed to ensure Mr. Cooper and/or  
11 its predecessor(s) complied with the Confirmation Order, to include the names, titles, and  
12 addresses of each individual who took action, and the dates and description of those individuals'  
13 actions.

14           g.       The actions Mr. Cooper took to process payments received by the Debtor from  
15 March 8, 2011 to present.

16           Schulte seeks from the Person Most Knowledgeable of Nationstar LLC d/b/a Mr. Cooper to  
17 provide production of documents relating to the Debtor's property at 3322 Cheltenham Street as  
18 follows:

19           a.       Please produce, from Mr. Cooper's servicing systems of record, any and all  
20 documents regarding the mortgage loan account with respect to the property located at 3322  
21 Cheltenham Street, Las Vegas, NV 89129, including, but not limited to:

- 22                   1.       Note, promissory note, endorsements, allonges, riders, attachments,  
23 amendments and/ or modifications.  
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2. The deed of trust or mortgage, with any and all endorsements, allonges, riders, attachments and / or amendments.
  3. Statement of account, accounting, and/or documents that concern, refer, relate to, or describe all payments, credits, debits, interest charges, late fees, attorney fees, advances for taxes and insurance, any other fees or charges placed on the account, and credits applied to the mortgage loan account.
  4. Collection notes, full payment histories, payment history with commentary, account summaries, call logs, notices, correspondence of any kind, mortgage and escrow statements, records indicating account balance, and records indicating account status.
  5. Internal communications such as memoranda, handwritten notes, etc. and all electronically-stored information such as e-mails, telephone recordings, account records, etc.
- b. Please produce any and all contracts and/or agreements between you or your predecessor(s) and Debtor.
- c. Please produce any and all documents in your possession regarding the Chapter 11 bankruptcy case filed by William R. Schulte and Melani Schulte, Case No. 09-29123-MKN (the "2009" Bankruptcy")
- d. Please produce copies of all documents showing how you have calculated interest on the amount you claim is owed to you regarding the Property located at 3322 Cheltenham Street since the Order Confirming Chapter 11 Plan of Reorganization, entered on March 8, 2011 in the 2009 bankruptcy. (the "Confirmation Order").
- e. Please produce copies of all documents showing how you or predecessor(s) applied each and every payment made on the claim you assert is owed to you regarding the Property since the entry of the Confirmation Order.

1           f.       Please produce copies of all documents showing how you have calculated the  
2 amount you claim is owed in any Proof of Claim you filed in this case.

3           g.       Please produce all documents evidencing any charges, fees, advances for taxes  
4 and insurance, or any amount placed on the mortgage loan account related to the property at  
5 3322 Cheltenham Street since the Confirmation Order was entered.  
6

7           h.       Please produce general policies and procedures Mr. Cooper employs to ensure  
8 Mr. Cooper complies with all bankruptcy court orders that pertain to claims held or asserted by  
9 Mr. Cooper in regard to the property at 3322 Cheltenham Street.

10          i.       Please produce documents showing how Mr. Cooper ensured Mr. Cooper and/or  
11 its predecessor(s) complied with the Confirmation Order, to include the names, titles, and  
12 addresses of each individual who took action, and the dates and description of those individuals'  
13 actions.  
14

15          j.       Please produce any and all documents evidencing any transfer or assignment of  
16 the note relating to 3322 Cheltenham Street.

17          k.       Please produce any and all documents evidencing any transfer or assignment of  
18 the deed of trust or mortgage relating to 3322 Cheltenham Street.

19          l.       Please produce any and all documents identifying the owner of the mortgage  
20 loan for the property located at 3322 Cheltenham Street and any and all documents governing  
21 the relationship between you and the owner of the mortgage loan for the property located at  
22 3322 Cheltenham Street.  
23

24          m.       Please produce any documents and electronically stored information related to  
25 or documenting the transactions through which you acquired the portfolio of servicing rights  
26

1 that included the servicing rights for the loan relating to Debtor's property at 3322 Cheltenham  
2 Street.

3 The requested discovery from the Person Most Knowledgeable of Nationstar LLC d/b/a Mr.  
4 Cooper is well within the scope of examination permitted under Fed. R. Bankr. P. 2004, which  
5 includes:

6 [t]he acts, conduct, or property or... the liabilities and financial condition of the  
7 debtors, or ... any matter which may affect the administration of the debtor's estate, or  
8 to the debtor's right to a discharge. In a ... reorganization case under chapter 11 of the  
9 Code, ... the examination may also relate to the operation of any business and the  
10 desirability of its continuance, the source of any money or property acquired or to be  
acquired by the debtor for purposes of consummating a plan and the consideration  
given or offered therefore, and any other matter relevant to the case or to the  
formulation of a plan.

11 WHEREFORE, Schulte respectfully requests that this Court enter its Order authorizing the  
12 examination of the Person Most Knowledgeable of Nationstar LLC d/b/a Mr. Cooper as described  
13 herein. A proposed order is attached as Exhibit 1.

14 DATED this 23rd day of April, 2019.

16 /s/ Karen L. Kellett

Karen L. Kellett (TX Bar No. 11199520)

Admitted Pro Hac Vice 1/23/2019

Caitlyn N. Wells (TX Bar No. 24070635)

Admitted Pro Hac Vice 1/23/2019

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*Attorneys for Schulte Properties LLC*

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**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Kellett & Bartholow PLLC and that on April 23, 2019, I caused to be served a true and correct copy of the EX PARTE MOTION FOR ORDER REQUIRING THE PERSON MOST KNOWLEDGEABLE OF NATIONSTAR LLC d/b/a MR. COOPER TO APPEAR FOR EXAMINATION PURSUANT TO FED. R. BANKR. P. 2004 REGARDING PROPERTY LOCATED AT 3322 CHELTENHAM STREET in the following manner:

**[X] a. Electronic Service**

Under Administrative Order 02-1 (Rev. 8-31-04) of the United States Bankruptcy Court for the District of Nevada, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities.

**[X] b. United States Mail**

By depositing a copy of the above-referenced document for mailing in the United States Mail, first class postage prepaid, at Las Vegas, Nevada, to the parties listed below at their last known mailing addresses, on the date above written.

Nationstar LLC d/b/a Mr. Cooper  
8950 Cypress Waters Blvd.  
Coppell, TX 75019-4620

Corporation Service Company  
211 E. 7<sup>th</sup> Street, Suite 620  
Austin, TX 78701

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**I declare under penalty of perjury that the foregoing is true and correct.**

Dated: April 23, 2019.

/s/ Caitlyn N. Wells

An Employee of Kellett & Bartholow PLLC



**EXHIBIT 1 – PROPOSED ORDER**

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*Attorneys for Schulte Properties LLC*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In Re:

SCHULTE PROPERTIES LLC,

Debtor(s)

Case No. BK-18-12734-mkn  
Chapter 11

**ORDER GRANTING EX PARTE MOTION  
FOR ORDER REQUIRING THE PERSON  
MOST KNOWLEDGEABLE OF  
NATIONSTAR LLC d/b/a MR. COOPER  
TO APPEAR FOR EXAMINATION  
PURSUANT TO FED. R. BANKR. P. 2004  
REGARDING PROPERTY LOCATED AT  
3322 CHELTENHAM STREET**

1 This Court having reviewed the *Ex Parte* Motion for Order Requiring the Person Most  
2 Knowledgeable of Nationstar LLC d/b/a Mr. Cooper to Appear for Examination Pursuant to Fed. R.  
3 Bankr. P. 2004 regarding property located at 3322 Cheltenham Street (the "Motion") submitted by  
4 debtor Schulte Properties LLC, and for good cause appearing;

5 IT IS HEREBY ORDERED that the Motion is GRANTED;

6 IT IS FURTHER ORDERED that the Person Most Knowledgeable of Nationstar LLC d/b/a  
7 Mr. Cooper shall appear for an examination under oath regarding the Debtor's mortgage account and  
8 Mr. Cooper's servicing of Debtor's mortgage loan account located at 3322 Cheltenham Street, before  
9 a certified court reporter, at a time, place, and date to be mutually agreed upon by the parties, or if no  
10 such agreement is reached, upon no less than fourteen (14) calendar days written notice by Schulte  
11 Properties LLC for examination.

12 IT IS FURTHER ORDERED that the oral examination shall continue from day to day, as  
13 necessary.

14 IT IS SO ORDERED.

15 Respectfully Submitted By:

16 /s/ Karen L. Kellett

17 Karen L. Kellett (TX Bar No. 11199520)

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